



Chapter 5

COMPETITIVE PROCUREMENT METHODS

5.1 Overview of Competitive Methods

With few exceptions, competitive procurement of personal services is required by RCW 39.29, “Personal Service Contracts.” Competition is to be open, fair and objective and should be conducted carefully to ensure those aims are achieved. The following chart provides an outline of competitive methods used to procure personal services depending upon the dollar amount of the proposed contract. Please refer to the sections in this chapter for more detailed information on the requirements for competition in each dollar range.

| DOLLAR THRESHOLD | COMPETITIVE PROCESS | PERSONAL SERVICES COMPETITIVE PROCUREMENT MAJOR ACTIVITIES |
|---------------------|---|---|
| \$1 - \$4,999 | Not Required | <ul style="list-style-type: none"> Seeking competition is always recommended, though not required for this dollar range. Telephone calls can be made to firms or individuals, describing the services desired and requesting price, schedule and qualifications to perform. Written contract is entered into upon selection of contractor, regardless of dollar amount. |
| \$ 5,000 - \$19,999 | Informal Competition--also called “Evidence of Competition” | <ul style="list-style-type: none"> Prepare written document/letter including at a minimum: description of services required, project schedule, request for consultant's qualifications, request for costs or fees and due date for responses. Send to a minimum of three firms/individuals. May be faxed to them and responses may be faxed to agency to expedite processing. Evaluate responses and make award decision. Negotiate contract. Document for file: names of firms solicited; information on firm's responses; basis for award decision; copy of contract. |
| \$20,000 or more | Formal Competition | <ul style="list-style-type: none"> Prepare formal solicitation document, e.g., Request for Proposals (RFP) or Request for Qualifications/Quotations (RFQQ). Include all requirements in order for proposer to understand what the agency needs and how the agency will evaluate responses. Publish legal notice in major daily newspaper in Washington State to notify firms of upcoming solicitation. Develop bidder's list from firms responding to notice, internal agency listing, etc. Issue RFP or RFQQ. Conduct preproposal conference, if scheduled in RFP or RFQQ, and issue minutes. Date and time stamp proposals received by due date. Evaluate proposals strictly against what is set forth in the RFP or RFQQ and score. Schedule oral interviews, if required. Determine apparent successful contractor. Notify successful and unsuccessful firms. Negotiate contract with apparent successful contractor. Conduct debriefing conferences, if requested. File contract with OFM (institutions of higher education may not be required to file due to fund source). Begin contract work. |

5.2 Informal Competition - Evidence of Competition

For personal service contracts estimated to be \$5,000 or greater but less than \$20,000, the agency may use the informal procurement process known as "evidence of competition." At a minimum, evidence of competition includes the following steps:

1. Locate the names and addresses of multiple firms or individuals that would be qualified to provide the service. Multiple firms means a reasonable number of consultants considering such factors as time, cost and availability of qualified consultants. In most instances, this means at least three consultants; however, more are encouraged. In the event less than three firms are contacted, an explanation must be placed in the file to document why more firms were not notified. Agencies should seek participation from certified minority- and women-owned firms by including them on any bidder list as well. If you need assistance locating names, you may contact the Office of Minority and Women's Business Enterprises at (360) 753-9697 or at their web site: <http://www.omwbe.wa.gov/>.
2. Prepare and issue a solicitation document. The solicitation document can be in any appropriate form, such as a letter or electronic memorandum. A sample letter which may be used for Evidence of Competition appears on page 5-3. At a minimum, the document should include a description of the type of service required, the proposed project schedule, a request for information on the consultant's qualifications, a request for the consultant's cost or fees, and the due date, time and location to submit responses. The solicitation can be sent electronically, by facsimile or through regular mail. This informal competitive process is intended to be expeditious; however, agencies should provide enough time for firms to submit complete responses.
3. Document the time and date written responses are received. If the responses are forwarded electronically or by facsimile, the date and time are automatically noted.
4. Evaluate the responses and determine which consultant's proposal most closely meets the requirements of the solicitation. Enter into contract negotiations with the top finalist.
5. Prepare the contract document and acquire signatures of both parties.
6. Thoroughly document the entire selection and award process. Prepare auditable documentation of the competitive process and maintain it in the contract file. Such documentation should include: the names of the firms contacted and/or solicited; a copy of the solicitation document; information on how the consultants responded; an explanation of the evaluation and basis for the award decision; process; and a copy of the contract.

Contracts awarded under "evidence of competition" are not required to be filed with OFM, but are subject to reporting to OFM requirements at the end of each fiscal year. (See Chapter 4 for more detailed information on filing and reporting requirements.)

SAMPLE LETTER

EVIDENCE OF COMPETITION - INFORMAL SOLICITATION

(For personal service contracts of \$5,000 to \$19,999,
send to a minimum of 3 qualified firms/individuals)

Date _____

Proposer's Name _____

Proposer's Address _____

Dear: _____

AGENCY is soliciting proposals to provide _____.
_____. **[NOTE: Include a description of the service(s) required and project schedule.]**

The proposal is to be brief but should include:

- Experience on comparable projects
- Staff qualifications
- Project work plan
- Schedule to accomplish the project
- Costs or fees
- Names of three business references

Proposals will be evaluated by the _____ Agency based on the information requested above. All six items must be addressed for the proposal to be considered responsive. The deadline for submission of responses is LOCAL TIME, DAY & DATE _____. Proposals are to be mailed (U.S. or electronic), faxed, e-mailed or hand-delivered to:

Agency _____

Project Manager's Name _____

Street Address _____

City, State and Zip Code _____

Phone: _____

Fax: _____

E-Mail: _____

Late submittals will not be accepted. Any requests for information about this project are to be directed to the Project Manager named above.

Thank you for considering this solicitation.

Sincerely,

NOTE: Many other provisions may be included in the evidence of competition letter as appropriate.

5.3 Formal Competition

Personal service contracts estimated to be \$20,000 or more are subject to formal competition. As part of that process, agencies are required to publish a notice of the solicitation in a statewide daily newspaper. Newspapers that satisfy this requirement include the Daily Journal of Commerce, the Seattle Times, Seattle P.I., and The News Tribune.

Another requirement is issuance of a Request for Proposals (RFP) or other formal solicitation document. The RFP is the procurement document most frequently used in state government to procure personal services. This document not only serves as the basis for the consultants to respond but, as importantly, serves as the foundation for the eventual contract. A well-written, well-considered RFP will help ensure responsive proposals and positive results. The RFP must provide clear, unambiguous statements of project goals and objectives, instructions for submitting the proposals and criteria for proposal evaluation.

Customarily, the RFP requests that a consulting firm prepare, at its own expense, a proposal that responds to the specific needs of the agency. Therefore, the RFP must clearly communicate those needs.

5.3.1 Elements of an RFP

Primary information to include in an RFP is explained below:

Project Background and Scope of Work—Provide sufficient information on the background of the project, specific problem or need, the primary objectives and scope of work to ensure proposers understand what is needed and can submit viable proposals.

The scope of work looks for results—it is performance oriented, not process oriented. While the scope of work must be communicated as comprehensively as is feasible, it must also allow the consultant latitude in describing how the results will be achieved. The statement of work tells "what" must be done, the consultant responds with "how" to do it.

It is important to emphasize that performance requirements must be results-oriented. Results-oriented performance is the basis for determining, later in the contract administration process, whether the agency is receiving the quality service for which it is paying. One way to ensure successful outcomes is to break each major task down into smaller components or performance measures. This can serve as an incremental approach to building a performance-based contract.

The language in the project scope of work should be simple and direct. The scope of work will be read very carefully and scrutinized by prospective proposers in preparation of their offers. Use words such as "shall" and "will." "Shall" specifies that an element of the contract document is binding. "Will" provides for future specific action. Both words instruct the consultant to do or not to do something in a way that is direct, not passive.

Definitions—Definitions should be included for all special terms and phrases used within the RFP. The definitions must clearly establish what is meant, in order to avoid misunderstanding on the part of the reader.

State's Role—State-furnished facilities, equipment, information and services, if any, must be clearly stated, as the responses of prospective proposers may be contingent upon what the agency furnishes.

Funding—Budgetary constraints usually exist on any state project. The agency determines whether to disclose in the RFP the amount of available funds allocated to the project. Provided the RFP is well written and thoroughly descriptive of the project, the consultant should be able to determine a reasonable level for fees.

Some agencies include the funding information in the RFP as standard practice. Prospective contractors can more readily assess the scope of the project by looking at this maximum value. Knowing the project budget assists consultants in deciding what course to take in developing methodology. However, consultants will likely bid the contract at or just below that price.

Minimum Qualifications of Proposers- Minimum qualifications are determined by the state agency and program based on requirements applicable to the contracted service. Such qualifications may include:

- Experience providing the service.
- Staff credentials and expertise.
- Capabilities to meet service delivery, program management, and contract administration requirements.
- Other special requirements such as the ability to provide culturally relevant services, in languages other than English when necessary; physical presence or capacity to deliver services in specific geographic locations; insurance coverage; and other qualifications necessary to perform the contract according to agency specifications.

Project Schedule—Agencies should include realistic dates for project completion. Consultants should be expected to design methodology in keeping with the real needs of the agency rather than to design for an artificial time frame. In some instances an agency may want to include only critical dates and let the proposer suggest the actual work schedule.

Other elements which are frequently included in the RFP are:

- Identification of an RFP coordinator as the contact person.
- Complete instructions for submitting proposals and due dates for responses.
- Mode and frequency of consultant reporting to agency management.
- Method and schedule of contract payment.
- Notice of option to extend contract performance, if applicable.
- Insurance requirements.

- Ownership of final product.
- Criteria for evaluating proposals.
- Copy of agency's general terms and conditions for contracting.
- Debriefing procedure.
- Public disclosure requirements.
- Protest procedures established by the agency.
- Applicable exhibits.

Sample RFP Format—Please refer to Appendix C for a sample Request for Proposals. The terms in this sample represent a fairly standard approach to a solicitation document.

Other RFP Elements—RFPs may include many provisions appropriate to the project, which are not included in the sample RFP, Appendix C. Some RFPs require the proposer to respond with a “Letter of Intent to Bid,” which provides the agency an estimate of the number of responses to expect. RFPs may require that the proposers be assigned bidder codes, in order that a “blind” evaluation may be conducted. These and many other requirements may be included in an agency's solicitation document.

5.3.2 Typical RFP Schedule

The following sample schedule of sequential, primary activities of an RFP process is provided as a guide in developing your procurement schedule. A complex procurement can take much longer; a simple procurement could be accomplished in less time.

| RFP ACTIVITY | SAMPLE SCHEDULE |
|---|-----------------|
| <ol style="list-style-type: none"> 1. Develop a detailed need statement. 2. Draft the RFP. 3. Coordinate review of the draft RFP with agency staff. 4. Develop a schedule for the RFP. 5. Make arrangements for the preproposal conference. 6. Prepare legal notice of forthcoming RFP and publish in newspapers. 7. Compile mailing list. 8. Complete final RFP document. 9. Select RFP evaluators. 10. Draft scoring sheets to be used by evaluators. | Weeks 1 – 2 |
| <ol style="list-style-type: none"> 11. Issue the RFP to all interested parties. 12. Document all telephone and written inquiries regarding the RFP. 13. Prepare agenda for the preproposal conference. Include any questions regarding the RFP asked to date. | Weeks 3 – 4 |
| <ol style="list-style-type: none"> 14. Conduct preproposal conference (used for more complex procurements). 15. Send addendum to the RFP including questions and answers from the preproposal conference. | Weeks 5 – 6 |

| | |
|---|---------------|
| 16. Accept proposals until deadline for submission. 17. Determine responsiveness of proposals. 18. Evaluate proposals and make award determination. 19. Obtain internal agency review and approvals for award. 20. Announce apparent successful contractor. 21. Notify unsuccessful proposers. | Weeks 7 – 8 |
| 22. Negotiate contract. 23. Conduct debriefing conferences, if requested. 24. Finalize contract document. | Weeks 9 – 10 |
| 25. File contract, if required, with OFM. (May require ten working day filing period.) 26. Sign contract and begin work. | Weeks 11 - 12 |

A flow chart is provided on pages 5-12 and 5-13 which also outlines a typical RFP process.

5.3.3 Proposal Preparation and Submission Instructions

The RFP should contain instructions on how to prepare the proposal. Specifying a standardized format for responses will ease evaluation by the agency. Consultants should understand that failure to follow prescribed requirements and to submit requested information may result in rejection of the proposal as non-responsive.

Proposals are generally submitted in three parts, if requested by the RFP, and contain the following information:

Technical Proposal – *What is to be Done and How?*

The technical proposal should contain an explanation of how the consultant plans to approach and conduct the work and the steps to be taken to successfully complete it. Consultants are to demonstrate that they understand both the magnitude and the importance of all elements of the work, and their proposal should present a clear plan to accomplish the work. Consultants must be advised that a mere repetition of information from the project scope of work section will not be considered responsive to the RFP.

Management Proposal – *Who is to Do the Work and Under What Terms?*

The management proposal should contain information on the consultant's organization, proposed team structure and internal controls, and relevant experience, both in general work and in projects similar to the subject of the RFP.

Knowledge of past performance of a contractor can enable state agencies to predict the quality and customer satisfaction of future work. Coordinating with other state agencies may be one way to obtain this information. References, monitoring reports, audit reports, or evaluations are potential resources to aid examination of prior performance. Aspects of past performance that may be taken into account include:

- Quality of service, including compliance with contract requirements.
- Timeliness of performance, such as adherence and responsiveness to contract schedules.
- Cost controls including staying within budget, and providing accurate and complete billings.
- Business practices and key personnel performance including the track record of the organization and its key staff, compliance with fiscal accountability requirements, and effective working relations between the contractor and the agency.
- Customer satisfaction.
- Previous contract(s) terminated for default.

The proposal should also identify the contract manager and state the names of the staff to be assigned to the project, their functions and a detailed resumé for each.

The management proposal must emphasize staff commitment to the project. It may include the number of hours or percentage of time key personnel will devote to it. An organizational chart showing the responsibility of key project staff members may be requested. If references were requested in the RFP, they will be included here. Any subcontractor information is also included in this section. If the firm is a certified minority- and/or women-owned business, proof of certification is included as well.

Cost Proposal – *How Much Will it Cost?*

The cost proposal should contain the following information as applicable:

- Maximum cost for the entire project broken down by activities, tasks, outcomes, phases or deliverables as appropriate to the project.
- Cost or pricing details. Rates generally include all overhead and profit.
- Estimated periodic billing to the agency based on the cost of the deliverable items.
- Any subcontract costs.
- Travel, lodging and other direct expenses, if allowable.

If requested, the proposer should supply a recent financial report or bank references for evaluation of financial responsibility.

5.3.4 Evaluation Criteria

Detailed evaluation criteria should be developed concurrently with the RFP. The evaluation criteria must be consistent with the RFP. To use the point score method, evaluation criteria are individually weighted with a point value relative to the item's importance to project success.

The following evaluation criteria, not listed in order of significance, are often used to evaluate proposals:

- Proposer's project approach and methodology.
- Quality of project work plan (technical proposal).

- Feasibility of the proposed schedule.
- Description of proposed deliverables.
- Project management and internal controls.
- Firm's and staff qualifications and relevant experience.
- Business references.
- Project cost.

The proposal evaluation scoring sheet, including specific criteria and the weighting or point value of each, should be developed prior to issuing the solicitation document. Attached as Appendix D is an example of an evaluation scoring sheet. More detailed questions specific to the project would often be included in an agency's scoring sheet depending upon the nature and complexity of the project. The critical point is that the scoring sheet reflects the requirements stated in the RFP.

5.3.5 Timeline for Responses

Many factors determine the amount of time between mailing the solicitation document and the due date for responses. Generally, consultants should be given enough time to prepare a thorough and comprehensive response. Four weeks from issuance of the solicitation is a reasonable time for consultants to prepare responses under most circumstances. The absolute minimum is two weeks, i.e., ten working days, in the case of a genuinely urgent situation or a simple project.

If the timeline is too restrictive on a major procurement, the agency risks reducing both the quality and the quantity of proposals submitted. Consultants may not have the opportunity to assemble the best management team or to prepare a comprehensive technical proposal when unrealistic response dates are set. In some instances, qualified consultants may not bid if they think an unrealistic timeframe is being imposed.

If a preproposal conference is scheduled, it should be convened no later than two weeks after mailing the procurement document. This allows the agency time to prepare and distribute the information provided at the preproposal conference, which is then issued as an addendum to the Request for Proposals. The due date for responses would normally be two weeks after the preproposal conference.

5.4 Another Type of Formal Procurement Document

A Request for Qualifications and Quotations (RFQQ) is a more streamlined procurement document that may be used when the project scope and associated tasks are well defined. The objective of an RFQQ is to select the firm most qualified to perform the work defined in the RFQQ at a competitive price. The process is similar to that used for a Request for Proposals but is less comprehensive, since a technical proposal or work plan is not being requested from the proposers. The evaluation is limited to an analysis of the firm's qualifications, experience and ability to perform the services and their costs. The weighting of these factors is contingent upon

agency need. The Request for Proposals sample included as Appendix C can be used as the framework for an RFQQ by deleting the requirement for a technical proposal.

5.5 Competitive Solicitation—Variation

Agencies have indicated an interest in issuing competitive solicitations for personal services that allow other agencies to purchase from their contracts. If an agency is interested in this arrangement, the Request for Proposals (RFP) or Request for Qualifications/Quotation (RFQQ) must clearly state this intent. Proposers must understand the potential quantity of services which may be demanded in order to respond with a viable proposal.

The awarding agency is responsible to comply with all the terms of the RFP or RFQQ and the contract. The agency awards the contract specifying the scope of work, maximum contract amount and rates for services, period of performance, etc., and files the contract with OFM. Task orders may be negotiated and issued as approved among the awarding agency, the contractor and the agency for which services will be provided. Any amendments to the contract are filed by the awarding agency. As with all other contracts, the scope of services must be consistent with the description in the solicitation. Scope creep is not permissible.

In some instances, agencies have needed personal services on a short turnaround basis and have competitively awarded multiple contracts for a specific service, e.g., land appraisals. The contracts are awarded with a scope of work, period of performance, fees and maximum dollar value. However, work is not authorized until a task order is executed specifying the specific scope of work, duration and cost for the task order. Based on the dollar amount, the contracts are filed with OFM, but the individual task orders are not. If the contract is formally amended to add dollars, scope or time, the amendment is filed with OFM. It is vital that agencies maintain the validity of the process by establishing a fair and impartial process up front by which task orders will be assigned to the qualified firms. Selection of a capable contract manager will be essential in ensuring successful management of a task order contract.

5.6 Unsolicited Proposals

An agency may occasionally receive a proposal that has not been asked for or solicited. The consultant in that instance is initiating the procurement process and is endeavoring to provide a service that he/she perceives the agency needs.

Agency staff should review the offer and make a determination whether it is feasible or potentially beneficial. If the service is deemed unnecessary or inappropriate by the agency, the proposal may be rejected. Written notice should be provided to the proposer of the agency's decision. If the service is deemed beneficial or necessary, a competitive procurement must be conducted. A case may be made for a sole source procurement only if the service is determined to be unique or highly specialized.

COMPETITIVE PROCUREMENT METHODS



